

STATE OF NEW YORK
COUNTY COURT :: BROOME COUNTY

THE PEOPLE OF THE STATE OF NEW YORK

I N D I C T M E N T

-vs-

(Felony Pleading No. 19-314)

MICHAEL P. GINCEROWSKI,

2019 BROOME COUNTY TERM VIII

Defendant.

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE, in violation of Section 125.13, Subdivision 1, of the Penal Law of the State of New York, a Class C Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did commit the crime of Vehicular Manslaughter in the Second Degree as defined in Section 125.12 of the Penal Law, and committed such crime while operating a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of the Vehicle and Traffic Law, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while having .19 of one per centum or more by weight of alcohol his blood as shown by chemical analysis his blood and as a result of such intoxication did operate said motor vehicle in a manner that caused the death of Constance Mazzaresse, all contrary to the provisions of the statute in such case made and provided.

SECOND COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE, in violation of Section 125.13, Subdivision 2, of the Penal Law of the State of New York, a Class C Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did commit the crime of Vehicular Manslaughter in the Second Degree as defined in Section 125.12, of the Penal Law and committed such crime while knowing or having reason to know that his license or his privilege of operating a motor vehicle in New York State or his privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the Vehicle and Traffic Law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the Vehicle and Traffic Law, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while in violation of Subdivision 3 of section eleven hundred ninety-two of the Vehicle and Traffic Law, and while his license or privilege to operate a motor vehicle in New York State was revoked, and said defendant knew or had reason to know of such revocation, and that as a result of such intoxication did operate said motor vehicle in a manner that caused the death of Constance Mazzaresse, all contrary to the provisions of the statute in such case made and provided.

THIRD COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE, in violation of Section 125.13, Subdivision 2, of the Penal Law of the State of New York, a Class C Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did commit the crime of Vehicular Manslaughter in the Second Degree as defined in Section 125.12, of the Penal Law and committed such crime while knowing or having reason to know that his license or his privilege of operating a motor vehicle in the state or his privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the Vehicle and Traffic Law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the Vehicle and Traffic Law, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while in violation of Subdivision 2 of section eleven hundred ninety-two of the Vehicle and Traffic Law, and while his license or privilege to operate a motor vehicle in New York State was revoked, and said defendant knew or had reason to know of such revocation, and that as a result of such intoxication did operate said motor vehicle in a manner that caused the death of Constance Mazzaresse, all contrary to the provisions of the statute in such case made and provided.

FOURTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE, in violation of Section 125.13, Subdivision 3, of the Penal Law of the State of New York, a Class C Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did commit the crime of Vehicular Manslaughter in the Second Degree as defined in Section 125.12 of the Penal Law, and has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the Vehicle and Traffic Law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while in violation of Subdivision 3 of section eleven hundred ninety-two of the Vehicle and Traffic Law, and that as a result of such intoxication did operate said motor vehicle in a manner that caused the death of Constance Mazzaresse, all contrary to the provisions of the statute in such case made and provided.

FIFTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE, in violation of Section 125.13, Subdivision 3, of the Penal Law of the State of New York, a Class C Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did commit the crime of Vehicular Manslaughter in the Second Degree as defined in Section 125.12 of the Penal Law, and has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the Vehicle and Traffic Law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while in violation of Subdivision 2 of section eleven hundred ninety-two of the Vehicle and Traffic Law, and that as a result of such intoxication did operate said motor vehicle in a manner that caused the death of Constance Mazzaresse, all contrary to the provisions of the statute in such case made and provided.

SIXTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of MANSLAUGHTER IN THE SECOND DEGREE, in violation of Section 125.15, Subdivision 1, of the Penal Law of the State of New York, a Class C Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June 2019, did recklessly cause the death of another person, to wit: at the aforementioned time and place, said defendant did recklessly cause the death of Constance Mazzaresse, all contrary to the provisions of the statute in such case made and provided.

SEVENTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of VEHICULAR MANSLAUGHTER IN THE SECOND DEGREE, in violation of Section 125.12, Subdivision 1, of the Penal Law of the State of New York, a Class D Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June 2019, did cause the death of such other person by operation of a vehicle in violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of the Vehicle and Traffic Law or by operation of a vessel or public vessel in violation of paragraph (b), (c), (d) or (e) of subdivision two of section forty-nine-a of the navigation law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such motor vehicle, vessel or public vessel in a manner that causes the death of such person, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while in an intoxicated condition, and as a result of such intoxication did operate said motor vehicle in a manner that caused the death of Constance Mazzaresse, all contrary to the provisions of the statute in such case made and provided.

EIGHTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of VEHICULAR MANSLAUGHTER IN THE SECOND DEGREE, in violation of Section 125.12, Subdivision 1, of the Penal Law of the State of New York, a Class D Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June 2019, did cause the death of such other person by operation of a vehicle in violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of the Vehicle and Traffic Law or by operation of a vessel or public vessel in violation of paragraph (b), (c), (d) or (e) of subdivision two of section forty-nine-a of the navigation law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such motor vehicle, vessel or public vessel in a manner that causes the death of such person, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while having .19 of one per centum or more by weight of alcohol in his blood as shown by chemical analysis of his blood, and as a result of such intoxication did operate said motor vehicle in a manner that caused the death of Constance Mazzaresse, all contrary to the provisions of the statute in such case made and provided.

NINTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of AGGRAVATED DRIVING WHILE INTOXICATED, in violation of Section 1192, Subdivision 2-a(a), of the Vehicle and Traffic Law of the State of New York, a Class E Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did operate a motor vehicle while in violation of Section 1192 of the Vehicle and Traffic Law, while having .18 of one per centum or more by weight of alcohol in his blood, to wit: at the aforementioned time and place, said defendant, did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while the said defendant had .19 of one per centum by weight of alcohol in his blood as shown by chemical analysis of his blood, made pursuant to the provisions of Section 1194 of the Vehicle and Traffic Law of the State of New York, all contrary to the provisions of the statute in such case made and provided.

TENTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment,

accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of DRIVING A MOTOR VEHICLE WITH .08 OF ONE PER CENTUM OR MORE BY WEIGHT OF ALCOHOL IN HIS BLOOD, in violation of Section 1192, Subdivision 2, of the Vehicle and Traffic Law of the State of New York, a Class E Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did operate a motor vehicle in violation of Section 1192 of the Vehicle and Traffic Law, while having .08 of one per centum or more by weight of alcohol in his blood, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while the said defendant had .19 of one per centum by weight of alcohol in his blood as shown by chemical analysis of his blood, made pursuant to the provisions of Section 1194 of the Vehicle and Traffic Law of the State of New York, all contrary to the provisions of the statute in such case made and provided.

ELEVENTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of DRIVING WHILE INTOXICATED, in violation of Section 1192, Subdivision 3, of the Vehicle and Traffic Law of the State of New York, a Class E Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did operate a motor vehicle while in an intoxicated condition, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while the said defendant was in an intoxicated condition, all contrary to the provisions of the statute in such case made and provided.

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of AGGRAVATED UNLICENSED OPERATION OF A MOTOR VEHICLE IN THE FIRST DEGREE, in violation of Section 511, Subdivision 3ai, of the Vehicle and Traffic Law of the State of New York, a Class E Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, operated a motor vehicle in violation of Section 1192 of the Vehicle and Traffic Law, while having knowledge or reason to know that his license or privilege to drive in New York State was suspended or revoked due to a refusal to submit to a chemical test or a prior conviction under any subdivision of Section 1192, to wit: at the aforementioned time and place, said defendant while under the influence of alcohol in violation of Vehicle and Traffic Law Section 1192, did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, while his license or privilege to operate a motor vehicle in New York State was revoked, and said defendant knew or had reason to know of such revocation, all contrary to the provisions of the statute in such case made and provided.

THIRTEENTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment,

accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime of LEAVING THE SCENE OF A FATAL MOTOR VEHICLE ACCIDENT, in violation of Section 600, Subdivision 2a, of the Vehicle and Traffic Law of the State of New York, a Class D Felony, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, knowing or having reason to know that personal injury has been caused to another person due to an incident involving the motor vehicle operated by such person, before leaving the scene of said accident, and said defendant failed to stop and exhibit his driver's license and insurance information and name and address to the injured party or police officer and failed to report said accident as soon as physically able to the nearest police station or judicial officer, to wit: at the aforementioned time and place, said defendant while operating a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, said defendant did, while knowing or having reason to know that his vehicle had been involved in an incident that caused injury to and resulted in the death of Constance Mazzaresse, and immediately thereafter the defendant left the scene without stopping to identify himself and exhibit his license and other required documents and he thereafter failed to report said incident to the police as soon as physically able, all contrary to the provisions of the statute in such case made and provided.

FOURTEENTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuses the above defendant, MICHAEL P. GINCEROWSKI, of the crime of MOVING FROM LANE UNSAFELY, in violation of Section 1128, Subdivision a of the Vehicle and Traffic Law of the State of New York, a Traffic Infraction, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did not operate a motor vehicle as nearly as practicable entirely within a single lane and did not move from such lane without first ascertaining that such move can be made with safety, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, and at that time did leave his lane unsafely, all contrary to the provisions of the statute in such case made and provided.

FIFTEENTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment,

accuses the above defendant, MICHAEL P. GINCEROWSKI, of the crime of DRIVING ON SHOULDERS AND SLOPES, in violation of Section 1131 of the Vehicle and Traffic Law of the State of New York, a Traffic Infraction, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did not operate a motor vehicle over, across, along, or within any shoulder or slope of any state controlled-access highway except at a location specifically authorized and posted by the department of transportation, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, and at that time did drive onto the shoulder when he was not authorized by authority to do so, all contrary to the provisions of the statute in such case made and provided.

SIXTEENTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime

of CONSUMING AN ALCOHOLIC BEVERAGE IN A MOTOR VEHICLE, in violation of Section 1227, Subdivision 1, of the Vehicle and Traffic Law of the State of New York, a Traffic Infraction, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, did possess an open container containing an alcoholic beverage in a motor vehicle located upon the public highways or right of way public highway, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, and at that time did possess an open container of beer, all contrary to the provisions of the statute in such case made and provided.

SEVENTEENTH COUNT

THE GRAND JURY OF THE COUNTY OF BROOME, by this Indictment, accuse the above defendant, MICHAEL P. GINCEROWSKI, of the crime

of REFUSING TO TAKE BREATH TEST, in violation of Section 1194, Subdivision 1b, of the Vehicle and Traffic Law of the State of New York, a Traffic Infraction, committed as follows:

That the said defendant, MICHAEL P. GINCEROWSKI, in the Town of Fenton, County of Broome and State of New York, on or about the 22nd day of June, 2019, while operating a motor vehicle involved in an accident or while in violation of any of the provisions of Section 1192 of the Vehicle and Traffic Law, and at the request of a police officer did refuse to submit to a field breath test to be administered by the police officer, to wit: at the aforementioned time and place, said defendant did operate a 2005 Ford motor vehicle on Route 369, a public highway, in said Town, County and State, where such vehicle was involved in an accident and/or while said defendant was operating said motor vehicle in violation of Section 1192 of the Vehicle and Traffic Law and upon request of Deputy Daniel Dunham of the Broome County Sheriff's Office, a police officer, did refuse to submit to a field breath test, all contrary to the provisions of the statute in such case made and provided.

Dated: August 5, 2019



Foreperson

s/Stephen K. Cornwell, Jr.

District Attorney for Broome County

STATE OF NEW YORK
COUNTY COURT :: BROOME COUNTY

THE PEOPLE OF THE STATE OF NEW YORK

-vs-

INFORMATION AS TO

MICHAEL P. GINCEROWSKI,

PRIOR REVOCATION

Defendant.

BE IT REMEMBERED, that I, STEPHEN K. CORNWELL, JR., District Attorney for the County of Broome, New York, pursuant to the provisions of Section 200.60, Subdivisions 1 and 2 of the Criminal Procedure Law of the State of New York,

DO HEREBY ACCUSE the above-named defendant, MICHAEL P. GINCEROWSKI, of previously having his license or privilege to operate a motor vehicle in New York State revoked on the 12th day of September, 2014, based upon a REFUSAL TO SUBMIT TO A CHEMICAL TEST, and his license or privilege to operate a motor vehicle in New York State having never been restored from said revocation.

Dated: August 5, 2019

s/Stephen K. Cornwell, Jr.

District Attorney for Broome County

STATE OF NEW YORK
COUNTY COURT :: BROOME COUNTY

THE PEOPLE OF THE STATE OF NEW YORK

-vs-

INFORMATION AS TO

MICHAEL P. GINCEROWSKI,

PRIOR CONVICTION

Defendant.

BE IT REMEMBERED that I, STEPHEN K. CORNWELL, JR., District Attorney for the County of Broome and State of New York, pursuant to the provisions of Section 200.60, Subdivisions 1 and 2, of the Criminal Procedure Law of the State of New York,

DO HEREBY ACCUSE the above-named defendant, MICHAEL P. GINCEROWSKI, of having been previously convicted of the crime of DRIVING WHILE INTOXICATED, in violation of Section 1192, Subdivision 3, of the Vehicle and Traffic Law of the State of New York, in the New Berlin Town Court, County of Chenango and State of New York, on or about the 11th day of March 2015, and was duly sentenced therefore.

Dated: August 5, 2019

s/Stephen K. Cornwell, Jr.

District Attorney for Broome County